



Government interaction with Civil Society

**Policy paper on government interaction with civil society
on drug policy issues: Principles, ways and means,
opportunities and challenges**

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Permanent Correspondents of the Pompidou Group*



COUNCIL OF EUROPE



Co-operation Group to Combat Drug Abuse and Illicit trafficking in Drugs



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Executive summary

Increasing civil society engagement and participation in the policy planning and implementation process underlines the complementary relationship with representative democracy. Civil society organisations (CSOs) bring knowledge and independent expertise to the process of decision making. This has led governments at all levels, from local and regional to national, as well as international institutions, to draw on the relevant experience and competence of NGOs to assist in policy development and implementation. This also applies to the area of drug policy.

Civil society involvement in policy planning and delivery is an obligation in a democratic society. To ensure influence, relevance, added value and practical applicability of civil society involvement in policy planning and delivery – to the benefit of all stakeholders; the civil society actors themselves, the policy makers and society as a whole – it is necessary to define the opportunities, levels and means of participation. This requires taking into account the following aspects:

1. Determining the specific benefits of CSO participation in the different steps of the policy process should be agreed: agenda setting, drafting, decision, implementation, monitoring, review, reformulation.
2. Levels of participation: provision of information, consultation, dialogue and partnership between CSOs and public authorities.
3. Ways to identify the appropriate partners.
4. Means and tools that enable and support the process of participation.

While these elements combined form the basis and guidance for meaningful and effective civil society participation, it is equally important to develop criteria for identifying the potential partners for co-operation.

1. Introduction

The Pompidou Group recognizes the importance of civil society participation as an important element of the democratic process and therefore encourages its involvement in the development and implementation of policies, programmes, projects and activities. The concept of civil society participation flows from the European Convention of Human Rights (ECHR) which guarantees the freedom of expression (Art. 10) and the freedom of assembly and association (Art. 11). Following from these all citizens have the right to make their opinions known and are allowed to form, support and join political parties and pressure movements to effectively enjoy to their rights to make their political thoughts known.

This set of principles and means aims to provide decision makers, policy managers and civil society organisations with guidance and tools to develop practical and meaningful ways for government and civil society co-operation in the field of drug policy. It constitutes an action-oriented instrument that is intended to be useful on all levels by:

- Giving impetus and backing to the current trend among local, regional and national authorities to consult and cooperate with civil society.
- Contributing to the creation of an enabling environment for government co-operation with civil society.
- Being implementable at local, regional and national level.
- Being based on actual experiences, and good practices and valid methods for implementation.

In this way this set of principles and means also serves as a contribution to overcome existing barriers and to help delivering drug policy more effectively.

CSO refers to volunteers or professional, national or international associations with or without members, with legal or informal status, non-profit and independent, including think tanks and training institutions, trade unions and churches, as well as private and public foundations. Political parties do not constitute a CSO (in accordance with the recommendation (2007) 14 of the Committee of Ministers). CSOS which incite violence or advocate ideas that are incompatible with the objectives of the Council of Europe, or which are emanations of political parties are excluded.

2. The need for co-operation between governments and civil society – added value

The wide variety of CSOs, representing the diversity of society, are complementary to the representative democracy and provide public opinion, knowledge, experience and expertise to the process of decision making and policy implementation. CSOs enjoy trust from their members and society to voice concerns, to represent their interests and to gain involvement in causes, thereby providing crucial input into policy development. CSOs benefits both volunteers and society in general by building a sense of community, improving the daily lives of people and promoting social development by questioning and setting the agenda.

Collaborative action between civil society and public authorities leads to more dynamic, efficient and effective development and implementation of drug policies and action plans. Particularly in drug policy, touching about so many different fields for action and aspects of concern, cross-cutting or network-based civil society actors can often overcome sectorial barriers much easier than the public administrations. In addition cooperating with civil society contributes to meeting a concern of modern democracies about the alienation of citizens from the political processes.

3. Contributions from civil society

Input from civil society creates added value to the policy planning and implementation process, enhancing the legitimacy, quality, understanding and longer term applicability of the policy initiative. CSOs provide a wide range of contributions for policy development and implementation. These include:

- (i) **Campaigning and advocating:** raise issues, concerns and needs for a specific issue, point of view or a general public interest that is not yet covered by legislation or other policy documents.
- (ii) **Information and awareness building:** share new findings and knowledge gathered by CSOs with authorities, act as channels for reaching citizens, and signalling new trends in drug use and related issues (early warning function) in real-time.
- (iii) **Expertise and advice:** CSOs provide invaluable insights, experience and understanding resulting from their wide range of activities, from user involvement to service provision.
- (iv) **Innovation:** developing new solutions and approaches; demonstrating how these can be functional and supported by a wide opinion-base in the public.
- (v) **Service and resource provision:** CSOs are engaged in service provision in nearly all areas of drug policy. CSOs can be in the position to contribute resources to collaborative activities with public authorities.
- (vi) **Monitoring and evaluation:** CSOs follow up and document policy implementation, in particular quality standards and best practice.
- (vii) **Networking:** CSOs provide extensive contacts, platforms and other mechanisms for co-operation on local, national and international level. By making use of information and communication technology this constitutes a resource of infinite opportunities.

4. Basic principles for co-operation

The Council of Europe encourages co-operation with civil society in all policy fields and on all levels of policy making and implementation, be it international, national, regional and local levels (see appendix 1 for a comprehensive overview) on the basis of the following principles:

- (i) **Participation:** CSOs collect and channel views of their members, user groups and concerned citizens. A precondition for this principle is that the processes for participation are open and accessible, based on agreed parameters for participation.
- (ii) **Trust:** An open and democratic society is based on honest interaction between actors and sectors. Although CSOs and public authorities have different roles to play, the shared goal of improving the lives of people can only be satisfactorily reached if based on trust, implying transparency, respect and mutual reliability.
- (iii) **Accountability and transparency:** Acting in the public interest requires openness, responsibility, clarity and accountability from both the CSOs and public authorities, with transparency at all stages.
- (iv) **Autonomy, interdependence and independence:** CSOs must be recognised as free and independent bodies in respect to their aims, decisions and activities. They have the right to act independently and advocate positions different from the authorities with whom they may otherwise cooperate.

5. Forms of co-operation

The involvement of different CSOs in the different steps of the political process varies. Generally there are four gradual levels of participation, from least to most participative: information; consultation; dialogue; and partnership. They may be applied at any step in the policy-making process but they are often particularly relevant at certain points in the process.

- (i) **Information:** Access to information is the basis for all subsequent steps in the involvement of CSOs. This relatively low level of participation should consist of a two-way mutual process between public authorities and CSOs of providing information and access to it.
- (ii) **Consultation:** This is a form of initiative where the public authorities ask CSOs for their opinion on a specific policy topic or development. Consultation can be initiated by public authorities informing CSOs of current policy developments and asking for comments, views and feed-back. Consultation can also be initiated by CSOs in the form of public hearings or conference to which public authorities are invited to participate.
- (iii) **Dialogue:** The initiative for dialogue can be taken by either party and can be either broad or collaborative. A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialised meetings or formal co-operation arrangements between CSOs and public authorities. A collaborative dialogue is built on mutual interests for a specific policy development.
- (iv) **Partnership:** A partnership implies shared responsibilities in each step of the process from agenda setting, drafting, decision and implementation of activities, in its highest form it is based on co-management.

6. Opportunities for engagement in drug policy making process

In addition to different forms of co-operation there are different steps in policy development and implementation process offering opportunities for CSOs and public authorities to interact:

- (i) **Agenda setting:** CSOs channel views and positions into the process from the perspective of different collective interests in society in a way that is complementary to the political debate based on representation. This contributes to setting the agenda and to shaping the needed strategic approaches.
- (ii) **Drafting:** CSOs provide problems' identification, solutions and evidence based on their experience and knowledge.
- (iii) **Decision:** The forms of political decision-taking vary based on national context and legislation. At this step consultation with civil society is central to informed decision. However, the final power of choice lies with the public authorities, unless the decision is taken by a public vote, referendum or a co-decision mechanism.
- (iv) **Implementation:** CSOs are important partners to ensure that the intended policy outcome will be reached. Access to and exchange of clear and transparent information between CSO and public authorities is a crucial prerequisite to obtain public support and the most effective results.
- (v) **Monitoring and reformulation:** CSOs play a crucial role in monitoring and assessing the outcomes of the implemented policy, including the allocation of funds. Monitoring results constitute the basis for needed policy reformulation.

7. Means and tools for co-operation

There are certain tried and tested tools or mechanisms that provide cross-cutting support to participation throughout the whole policy planning and implementation process:

- (i) **Capacity-building for participation:** It is essential to develop the conditions, capacity and skills of local, regional and national CSOs so that they may be actively involved in policy formulation, project development and service provision. Capacity-building includes training seminars to improve the understanding of the reciprocal roles of CSOs and public authorities in this engagement, as well as exchange programmes with public authorities to facilitate the understanding of each other's realities.
- (ii) **Structures for co-operation between CSOs and public authorities:** In order to facilitate the relationship between public authorities and CSOs, a number of countries have developed coordinating bodies. These include: government bodies such as a contact person for civil society in each ministry or a central coordination body as a single interlocutor; joint structures such as multi-stakeholder committees, work groups, expert councils and other advisory bodies (permanent or ad-hoc); or CSO alliances/coalitions which pool resources and develop joint positions.
- (iii) **Framework documents on co-operation between CSOs and public authorities:** In many European countries framework agreements have been developed to outline undertakings, roles and responsibilities and procedures for co-operation. These documents lay out a clear basis for the relationship and thereby facilitate on-going dialogue and mutual understanding between CSOs and public authorities.
- (iv) **E-participation:** the importance and proliferation of on-line tools is steadily growing and offer great potential for improving democratic practice and participation of an organised civil society. They can largely contribute to the efficiency, transparency, accountability and responsiveness of institutions, as well as to the promotion of citizens' engagement and to increasing empowerment.

8. Challenges in compatibility between public institutions and CSOs

Government and public institutions have different roles and responsibilities than CSOs and often also different aims and objectives. In addition the management, administration and resource mobilization differ significantly. Levels of co-operation are also different: national, regional and local. Different institutions may also have different aims. This creates compatibility challenges on various levels of co-operation between public institutions and CSOs. The main barriers to effective coordination and co-operation include:

- (i) Co-operation formats are often fragmented and too short-term and, where in place, they remain ineffective and rarely develop their full potential.
- (ii) Structural incompatibilities, legal barriers, diverging professional interests, different expectations, and also all a lack of methodological knowledge on how to cooperate, are the main reasons that many co-operation efforts cannot achieve their intended effects or fail from the start.
- (iii) Regulations, infrastructure and training are frequently not flexible enough to provide for a smooth functioning of co-operation between the different institutional regulations and cultures of CSOs and public institutions. In addition a sometimes observed element of distrust or even competitiveness between CSO and government stakeholders make co-operation difficult since the necessary level of commitment is hard to achieve under such circumstances.
- (iv) Co-operation efforts and partnerships are frequently based on models or experiences. Every partnership and co-operation will require a unique inception and planning effort that takes into account the specific local situation, the political support, the capacities and the limitations of partners involved.
- (v) Establishing co-operation between a CSO and a public institution can be a very lengthy process, and its difficulty is often under-estimated. It is likely to require a change of attitude and perception on the part of the agencies concerned, a process which is often insufficiently supported, or supported only in the early stages. In general partnerships to succeed need a high level of mutual understanding and trust, as well as steadfast administrative support.

9. Overcoming barriers

Different perceptions in the relationship between governments and civil society have frequently led to misconceptions, misunderstandings and certain prejudices. These in turn have adversely affected the ability of both sides to co-operation with each other. In order to overcome these and enhance the inability to cooperate, the following can be applied:

- Identifying common perspectives and aims
- Accepting each other's different roles
- Set guidelines for partnerships
- Setting standards for co-operation
- Implementing confidence building measures
- Accepting transparency and openness
- Ensuring consistency and reliability, particularly in communication
- Providing training to create competence to cooperate
- Agreeing on dispute resolution mechanisms, procedures and resources

Drug policy has several security sensitive dimensions, such as law enforcement, criminal justice systems and customs. Security issues are frequently cited to as limitations to co-operation with CSOs in these areas. While these security concerns are justified and valid, they nonetheless can constitute a barrier for co-operation with civil society actors. Experiences in the international sphere have shown that in security sensitive areas where specific risks are identified, co-operation with non-government actors can be feasible and possible. Following a risk assessment a partner vetting procedure can be applied to identify feasible co-operation partners.

Appendix I

Council of Europe's policy and criteria to cooperate with NGOs and civil society

Since the Council of Europe's (CoE) inception there has been a strong link and co-operation between the Council and civil society. The Council engages with civil society largely because it is a way to democratically engage with citizens of member states and promote the Council's values, objectives and standards, in regards to human rights, democracy and rule of law. Co-operation between the Council and civil society is most evident in the Council's relations with international and national non-governmental organizations (NGOs). This history of co-operation has provided for general principles on how the two entities engage with each other.

The record of co-operation with NGOs and other civil society organisations is marked by a relationship that has continually progressed to reflect the evolving needs of the Council. Stemming from minimal consultations in 1951 (Resolution (51)30) engagement with civil society increased in 1972 (Resolution (72)35) and in 1993 (Resolution (93)38), as international NGOs were enabled to attain consultative status with the Council. Engagement was further promoted in 2003 when the Council authorized participatory status for international NGOs (Resolution (2003)8) and partnership status for national NGOs (Resolution (2003)9). The most current form of engagement transpires in the Conference of International Non-Governmental Organisations (INGOs) established in 2005. In December 2005, Resolution (2005)47, the Committee of Ministers further improved engagement with civil society as it authorized the Conference to send representatives to all the steering committees and their subordinate bodies. In its Recommendation (2007)14 of October 2007 the Committee of Ministers further reinforced the role of NGOs and civil society. Following a recommendation of the

CoE's Forum for the Future of Democracy of June 2007, the CoE's Conference of INGOs prepared a Code of Good Practice for Civil Participation in the Decision-Making Process, adopted on 1st October 2009 and adopted a Promotion and Implementation Strategy for the Code. An expert group was created to follow developments and raise awareness to the Code.

In principle, civil society organizations, including NGOs, act as intermediaries between the Council of Europe and the citizens of member states. These organizations are often called upon to provide experts in their field of action to the Council, to aid in the Council's campaigns and tend to be consulted on local human rights issues.¹ Practically all Steering Committees and Ad Hoc Committees have granted observer status with numerous NGOs, which are permanent and active partners in their work. This is mandated by the Committee of Ministers' Resolution Res (2005)47, which outlines this possibility and delineates the conditions for obtaining observer status. Additionally, the Parliamentary Assembly endorses its committees to establish working relations with NGOs to aid in the execution of its activities.²

Participatory status may be attained from the Secretary General of the Council of Europe by interested INGOs:

- (i) which are particularly representative in the field(s) of their competence, fields of action shared by the Council of Europe;
- (ii) which are represented at the European level, as made evident by having members in a significant number of countries throughout greater Europe;
- (iii) whose work supports the achievement of the closer unity mentioned in Article 1 of the Council of Europe's statute;
- (iv) which are capable of contributing to and participating actively in Council of Europe deliberations and activities;
- (v) which are able to make known the work of the Council of Europe among European citizens.³

¹ CM(97) 66, *Relations between the Council of Europe and Non-Governmental Organizations*

² SG/Inf(2011)12 Rev, *Reform of the Council of Europe engagement with civil society - Stocktaking and new proposals*

³ Resolution Res(2003)8, *Participatory status for international non-governmental organizations with the Council of Europe*

INGOs with participatory status may be asked to serve on the Liaison Committee of the Conference of INGOs. The Committee sustains dialogue between the Council's Secretariat and the INGOs and prepares the plenary sessions and annual work agenda.⁴ It also maintains relations with the political bodies of the Council, including the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Commissioner for Human Rights.

Those INGOs holding participatory status must keep themselves regularly informed of the Council of Europe's activities in order to actively participate and must supply information on issues which are of concern to the Council. Within member states, they must promote the respect and awareness of the Council's standards, conventions and legal instruments, assisting in their implementation when possible, and give the maximum publicity to initiatives and achievements of the Council of Europe. Moreover, INGOs must submit a report to the Secretary General every four years which stipulates its work and relations with the Council of Europe.

Presently, only INGOs may only gain participatory status with the Council. National NGOs, however, may correspondingly be granted partnership status, as sanctioned by Resolution (2003)9, through which they pursue civil society initiatives.

The Conference of INGOs is the central body representing the INGOs who maintain participatory status with the Council of Europe. It is recognized on a par as one of the eight key institutions which form the Council of Europe's structure. Its chief objectives are to guarantee participation in the Council's "quadrilogue", which esteems co-operation between governments, parliaments, local and regional authorities, as well as civil society organizations.

The Conference holds four sessions a year, which generally coincide with Parliamentary Assembly sessions in Strasbourg. The sessions are organized into plenary sessions and currently five committees

⁴ CM(97) 66, *Relations between the Council of Europe and Non-Governmental Organizations*

and two transversal groups. The work is usually comprised of debates on current and pressing societal problems. The results are then transmitted to the various Council of Europe bodies as the Conference contribution. Following invitations from administrative divisions, Conference representatives aid in the development of specific projects.⁵

Members of the Conference are able to communicate memoranda to the Secretary General or the Commissioner for Human rights, serve as expert advisors on policy and programs specific to their field, make statements to the Parliamentary Assembly's Committee, attend congressional hearings open to the public and to attend seminars, formal discussions and conferences. Organizations can also help prepare conventions and charters in their field of action, such as was done with the European Cultural Convention.⁶

⁵ *SG/Inf(2011)12 Rev, Reform of the Council of Europe engagement with civil society - Stocktaking and new proposals*

⁶ *Resolution Res(2003) 8 , Participatory status for international non-governmental organizations with the Council of Europe*

Appendix II

The different civil society actors

There are different actors in civil society with different roles and aims. These actors have different forms of organisation and incorporation, as well as different degrees of formality, from highly informal ad hoc groupings and initiatives that may be short lived to long established organisation with long-term objectives and aims.

Overview of different types of CSOs:

Non-governmental service providers

Status: formal

Perspective: long-term

Goals: providing a specifically defined service for the community of specific target groups, mostly no political orientation

Charities

Status: formal

Perspective: long-term

Goals: promoting ethical causes by providing charitable services, may include political or religious orientations

Single issue initiatives (informal + short term)

Status: informal

Perspective: short-term

Goals: promoting a clearly defined programmatic issue

Advocacy groups

Status: semi-formal/formal

Perspective: medium/long-term

Goals: promoting a clearly defined cause, supporting specific constituencies

Lobby groups

Status: informal/semi-formal

Perspective: medium

Goals: promoting a clearly defined cause, supporting specific interest groups

Government initiated organisations [GONGOS]

Status: formal

Perspective: long-term

Goals: promoting government policies in a civil society context



